

# Act No. 86/2011

## on Trade in Alcohol and Tobacco

### CHAPTER I

#### **Scope, purpose and supervision**

##### Article 1

###### *Scope*

This Act applies to the retail of alcohol and wholesale of tobacco.

This Act does not apply to vessels and aircraft that transport alcohol or tobacco to Iceland as part of a duty free allowance where such goods are treated according to special statutory provisions.

The Minister may establish special rules on the importation of alcohol by tourists and crew members of vessels and aircraft.

##### Article 2

###### *Purpose*

The purpose of this Act is to:

- a. define a framework for the retail of alcohol and wholesale of tobacco in the interest of improved public health and social responsibility;
- b. limit and control access to alcohol and tobacco in order to reduce the harmful effects of alcohol and tobacco consumption;
- c. protect young people from the consumption of alcohol and tobacco and limit the supply of undesirable products.

##### Article 3

###### *Supervision*

The supervision of the retail of alcohol and wholesale of tobacco and the application of this Act is entrusted to the Minister of Finance.

### CHAPTER II

#### **Administrative organisation**

##### Article 4

###### *The State Alcohol and Tobacco Company of Iceland*

The retail of alcohol and wholesale of tobacco shall be assigned to a special entity, the State Alcohol and Tobacco Company of Iceland (ÁTVR), supervised by the Minister.

ÁTVR shall carry out its operations in accordance with the Alcoholic Beverages Act, the Tobacco Control Act and the government's policy at any time.

The operations of ÁTVR shall be as efficient as possible and generate sufficient revenues to cover operating expenses and provide reasonable returns to the State Treasury, *inter alia* having regard to the assets tied up in the agency's operations.

#### Article 5

##### *Director of the State Alcohol and Tobacco Company of Iceland*

The Minister shall appoint the Director of ÁTVR for a term of five years. The Director shall have completed a university degree useful to his/her work.

The Director is in charge of the agency, is responsible for day-to-day operations and hires other employees. The Director is responsible for the preparation of an annual report on the operations and activities of ÁTVR and shall present it to the Minister once a year.

#### Article 6

##### *Tasks of the State Alcohol and Tobacco Company of Iceland*

The main tasks of ÁTVR are the following:

- a. Purchase of alcohol for retail and tobacco for wholesale.
- b. Storage and distribution of alcohol to liquor stores.
- c. Operation of liquor stores and provision of services to customers.
- d. Storage, wholesale and distribution of tobacco.
- e. Ensuring that all tobacco products are labelled in accordance with the Tobacco Control Act.
- f. Levy and collection of the tobacco tax.
- g. Other tasks related to the retail of alcohol and wholesale of tobacco.

### CHAPTER III

#### **About the State Alcohol and Tobacco Company of Iceland**

#### Article 7

##### *Legal monopoly*

ÁTVR has a legal monopoly on the retail sale and distribution of alcohol, cf. Article 10 of the Alcoholic Beverages Act. The reselling of alcohol in alcohol-licensed establishments is governed by the provisions of special legislation.

ÁTVR has a legal monopoly on the wholesale of tobacco in Iceland. The retail of tobacco is governed by the provisions of the Tobacco Control Act.

#### Article 8

##### *Tobacco tax and labelling of tobacco products*

ÁTVR levies and collects a tobacco tax on tobacco products which are imported to or produced in Iceland. The amount of the tobacco tax is laid down in the Alcohol and Tobacco Tax Act.

ÁTVR shall ensure that all tobacco products which are imported from abroad or produced in Iceland for commercial purposes are labelled.

#### Article 9

##### *Pricing of alcohol and tobacco*

All ÁTVR stores in Iceland shall offer the same prices for the same products.

ÁTVR shall add an 18% mark-up on alcoholic beverages with 22% or less alcohol by volume and a 12% mark-up on alcoholic beverages with more than 22% alcohol by volume. Reference is made to the Alcohol and Tobacco Tax Act as regards the determination of alcohol volume.

ÁTVR shall add an 18% wholesale mark-up on tobacco products.

The ÁTVR mark-up on alcohol and tobacco is added on to the total cost of a product exclusive of VAT.

ÁTVR may levy a charge on suppliers for the cost of offering a new alcoholic beverage for sale. The charge shall only be as high as is necessary to pay the cost of registration, checks and other arrangements that ÁTVR needs to make before it can offer a new product for sale.

ÁTVR may levy a charge on suppliers for the cost of labelling tobacco products. The charge shall only be as high as is necessary to pay the labelling costs. The labelling of tobacco products is governed by the provisions of the Tobacco Control Act.

## Article 10

### *Liquor stores*

ÁTVR shall own and operate liquor stores. ÁTVR shall submit an application for a license to operate a liquor store to the relevant local government authority. ÁTVR guarantees that its stores are equipped with adequate security and surveillance equipment. The opening hours of ÁTVR's stores are prescribed in the Alcoholic Beverages Act.

## Article 11

### *Product selection*

The Minister will establish regulations on ÁTVR's product selection and procurement of alcoholic beverages.

The objective of the regulations shall be to ensure an adequate selection of products having regard to customer demand, as well as ensuring that producers and suppliers of alcoholic beverages are able to offer their products for sale in liquor stores.

ÁTVR shall endeavour to ensure that its purchasing of alcoholic beverages accords with international conventions.

ÁTVR may reject products that contain manipulative or unreasonable information or suggest that alcohol enhances physical, mental, social or sexual function, are of an offensive nature or otherwise violate public morality, e.g. with reference to violence, religion, illegal drugs, political views, discrimination or criminal conduct.

ÁTVR may reject a product that is very similar to another product on the market.

ÁTVR may reject a product that contains caffeine or other stimulants.

## Article 12

### *Service and information*

ÁTVR shall offer customers high quality services based on professionalism and objectivity.

ÁTVR shall provide its customers with detailed information about the products on offer in accordance with the provisions of this Act, the Alcoholic Beverages Act and any other statutory provisions and rules in force at any time. The information shall educate consumers in a general way about alcohol and its origins, handling and use. ÁTVR shall also provide or procure the provision of information about the potential harmful effects of the product concerned and the risks associated with the consumption of alcohol and tobacco.

### Article 13

#### *Social responsibility*

ÁTVR conducts its activities in a socially responsible way and strives to prevent the harmful consumption of alcohol.

In cases where there is reason to suspect that a customer has not reached the legal age to buy alcohol as prescribed by the Alcoholic Beverages Act, ÁTVR shall make the customer in question prove his/her age by presenting a picture ID or other sufficient proof.

ÁTVR may refuse to sell or deliver alcohol to a person who is obviously intoxicated.

### CHAPTER IV

#### **Other provisions**

### Article 14

#### *Seizure of alcohol*

Products covered by this Act which are imported or produced without authorisation shall be seized. Imported products shall be delivered to ÁTVR for disposition.

### Article 15

#### *Right to appeal*

Decisions made on the basis of this Act in respect of a person's rights may be appealed to the Minister.

### Article 16

#### *Authorisation for issuing regulations*

The Minister may issue regulations containing further provisions on the application of this Act.

### Article 17

#### *Entry into force*

This Act is effective immediately.

On the entry into force of this Act, Act No. 63/1969 on Trade in Alcohol and Tobacco, as amended, shall be repealed.

### Notes on this Legislative Bill

This Bill is intended to serve as a new comprehensive law on trade in alcohol and tobacco. The older law dates back to 1969 and while it has undergone some changes since it was first enacted, the legislation currently in force does not reflect actual practice. The Bill does not propose major changes to the legal framework for alcohol and tobacco trading in Iceland, but rather to the application and purpose of such trading in line with the government's alcohol policy and the practices that have evolved.

In 2010 the Minister of Finance appointed a working group to draw up an alcohol policy for the government. In addition to a representative of the Minister of Finance, the group was composed of representatives of the Interior and Welfare Ministers. The group also included a representative of the Public Health Institute of Iceland and the Director of ÁTVR. The group has now completed its work and presented its proposals to the Minister of Finance.

The proposed new alcohol policy has now been submitted to the cabinet for approval. According to the policy there will be a continued emphasis on limiting the harmful effects of alcohol in Iceland, e.g. by establishing goals aimed at reducing overall consumption, minimizing the harmful consumption of alcohol and protecting young people from hazardous consumption. ÁTVR plays an important role in the government's plan to achieve those goals. The Bill was drafted with the government's policy in mind and provides ÁTVR with certain tools that enable it to facilitate a better wine culture in Iceland.

The main changes from the previous law include provisions relating to ÁTVR's social responsibility, rules on product selection and granting ÁTVR the right to reject products that do not comply with those rules. It is furthermore proposed that the agency should not have a board of directors but should rather be under the direct supervision of the Minister of Finance.

The Bill also takes account of a report drafted by another working group appointed by the Minister of Finance which delivered its proposals in the beginning of 2010. That report noted that the Act on trade in alcohol and tobacco was outdated in several respects and not in line with the practices that had evolved in Iceland related to the trading of alcoholic beverages. It stressed the importance of strengthening ÁTVR's status as a legal monopoly and giving it tools that allowed it to implement the government's policy more effectively. However, the main conclusion of that report was that the government had yet to establish a policy covering alcohol-related issues, and that it would be difficult to adapt the legislation to actual practice if a comprehensive alcohol policy did not exist. Such a policy has now been formulated, as discussed below.

### **Role of ÁTVR**

Alcohol is one of the few consumer products where a strong correlation has been shown to exist between overall consumption and the harm to society. Europe holds the world record in alcohol consumption - no other region on Earth consumes as much alcohol per person. Experts are increasingly concerned about the fact that the consumption pattern in Europe is shifting towards binge drinking, meaning that people are drinking large amounts of alcohol in a short period of time in order to produce rapid intoxication. Experts in alcohol issues are also alarmed by the fact that the producers of alcoholic beverages are targeting young people to a greater extent than before in their marketing campaigns; for instance, it has been pointed out that certain alcoholic drinks appear to be marketed directly to teenagers. Experts in alcohol-related issues at the World Health Organization and the EU have expressed grave concern about this development - they hold the view that countries that exercise strict control over the sale of alcohol should maintain those restrictions while governments that have followed a more liberal approach should tighten control. They cite studies showing that tighter alcohol controls reduce teenage drinking.

ÁTVR therefore faces a tricky balancing act. The use of alcohol can be addictive and abuse has negative consequences for the individual consumer and society as a whole. According to a recent study published in the medical journal *Lancet*, alcohol ranks as the fifth most harmful drug in the world. There is a direct correlation between the overall consumption of alcohol and the harm caused to society, with higher consumption levels causing more severe harm. This is why governments try to reduce overall consumption. Over the years various ways have been tried to limit the sale of alcohol. One of the most efficient means of achieving this goal is to establish state-run liquor stores with a legal monopoly on the sale of alcohol, as in the case of ÁTVR.

By operating a state-run alcohol monopoly such as ÁTVR, the government sends a signal that alcohol is not like any other consumer product. Alcohol monopolies of some form or another exist in a number of countries throughout the world. For instance, all the Nordic countries except Denmark have such monopolies in place. In the United States various forms of monopolies exist in 18 out of 50 states and in Canada in twelve out of thirteen provinces and territories. In this regard it is also worth noting that the rules in place in Iceland on alcohol and alcohol consumption are considered by many experts to be among the most effective in the world.

### **Social responsibility**

It is important that ÁTVR place high priority on social responsibility in its activities. At its most basic level, social responsibility is about making a positive contribution to one's community and respecting the rules of society and one's surroundings.

ÁTVR sells products that may be very harmful to the individual consumer and society as a whole. It is the responsibility of sellers to inform customers and consumers about the potential hazardous effects that the consumption of the products being sold may produce. ÁTVR must therefore keep abreast of the latest alcohol-related research and disseminate that knowledge to its customers if necessary. This applies in particular to the link between alcohol consumption and health, and it is important that ÁTVR's customers are encouraged to consume alcohol in a healthy and responsible way. This includes drinking alcohol in moderation and under appropriate circumstances. One of the most important tasks of ÁTVR in the area of social responsibility is to safeguard the welfare of young people and protect them from alcohol and its abuse. The tolerant mentality that exists in Iceland towards teenage drinking must be changed. ÁTVR should have strict procedures in place to enforce age restrictions and collaborate with the police and prevention initiatives.

In recent years ÁTVR has defined its social responsibility quite thoroughly. It includes the following elements:

- ÁTVR shall conduct its activities in a responsible manner; for instance, it is not allowed to take measures for the purpose of increasing sales.
- Strict enforcement of age limits.
- ÁTVR launches various campaigns to promote social responsibility. Examples include "Driving and drinking do not mix", "Responsibility of the host", "Wait" and "Let's not buy alcohol for teenagers".
- ÁTVR contributes to the development of a wine culture, e.g. by informing customers about wine and the connection between food and wine.
- Collaboration with the police and parties engaged in prevention of alcohol abuse. Particular emphasis placed on restricting teenagers' access to alcohol.
- ÁTVR endeavours to only offer products which are produced in accordance with the United Nations Global Compact principles.

Today ÁTVR is a service company based on social values. It does not engage in activities intended to increase sales or try to promote awareness of its products in order to attract customers. High priority is placed on employees possessing extensive knowledge of the products on offer and providing outstanding service to customers. Furthermore, the company is focused on improving the Icelandic wine culture by bringing customers' attention to high quality wines and foster a connection between food and wine in order to reduce binge drinking. All of this is done in an effort to reduce the social harm caused by the abuse of alcohol.

## **Government policy**

The objective of the government's alcohol policy is to minimize the harmful effects of alcohol on society and public health. Particular emphasis is placed on protecting children and teenagers from alcohol and its marketing. The basic principles of the alcohol policy include the operation of a state-run alcohol monopoly, high alcohol taxes and the banning of alcohol advertising and the marketing of alcohol.

The principal objectives of the alcohol policy are the following:

### *Consumption control:*

- Reduce overall consumption (control and limit overall consumption).
- Combat unhealthy consumption patterns.
- Banning of undesirable products.

### *Protection of young people:*

- Products which are marketed to young people are not to be sold.
- Delay teenagers' first drink of alcohol.
- Reduce alcohol consumption in the 18-20 age group.
- Protect the young, infants and unborn children.

### *Ban against advertising and marketing-related activities:*

- Advertising is prohibited.
- Products which have the potential to deceive consumers are not to be sold.
- Illegal selling of alcohol is to be combated.
- Marketing-related activities designed to increase sales of alcoholic beverages are not allowed.

### *Health care, prevention and harmful effects:*

- Reduce drunk driving.
- Educate, inform and raise the awareness of the public about the consequences of harmful consumption of alcohol.
- Provide health care to people suffering from alcohol-related health issues.
- Develop a closer link between the health care and treatment industries.
- Support and encourage preventive efforts at the administrative and local government level.
- Work towards changing the attitude of people 60 and over towards alcohol consumption.
- Reinforce research and monitoring of alcohol consumption.

This Bill suggests ways to achieve the above objectives. By maintaining a legal monopoly on the sale of alcohol, the authorities are able to control and limit the overall consumption of alcohol by the general public. The limited number of stores and opening hours are among the things that impede the increase of overall consumption. ÁTVR's right to inform consumers about the hazardous aspects of consuming alcohol and tobacco is another means to achieve these objectives, since it is intended to reduce unhealthy consumption patterns. One of the elements of the government's policy is not to allow the sale of undesirable products. These may include alcohol in the form of candy or products in misleading

packaging. To achieve the objective of preventing the sale of products which are marketed to young people, ÁTVR is granted the authority to reject products on the grounds listed in the Act.

### *Notes on individual Articles of the Bill*

#### Regarding Article 1

The Article sets out the scope of the Act. It is largely equivalent to Article 1 of the previous law. As before, the Minister is given the authority to establish special rules on the importation of alcohol by tourists and crew members of vessels and aircraft

#### Regarding Article 2

This Article is new and defines the purpose of the Act. It is proposed that the purpose of the Act should take account of the government's policy regarding the sale of alcohol and tobacco. The operations of ÁTVR are based on two different principles - on the one hand to observe the government's policy to control consumption and on the other hand to provide high quality services to its customers. It is therefore considered appropriate to set clear objectives and for the legislature to unequivocally state what considerations should govern decisions made on the basis of the Act.

A framework is defined for the retail of alcohol and wholesale of tobacco, which framework shall be based on improving public health and social responsibility. Studies have shown that the consumption of large amounts of alcohol and smoking adversely affects public health and increases social costs. Consequently, one of the goals of the Act is to improve public health by maintaining restrictions on the selling of alcohol and tobacco. Other goals include reducing the harmful effects of alcohol consumption by limiting access and protecting the young by enforcing strict age restrictions.

#### Regarding Article 3

The Article states, in clearer terms than in the previous law, that the supervision of the retail of alcohol and wholesale of tobacco and the enforcement of the Act is entrusted to the Minister of Finance. This is essentially the same arrangement as before.

#### Regarding Article 4

The Article covers the State Alcohol and Tobacco Company of Iceland, ÁTVR, which is supervised by the Minister of Finance and responsible for the retail of alcohol and wholesale of tobacco. It is stated that ÁTVR shall carry out its operations in accordance with the government's alcohol and tobacco policy. This means that its activities shall centre around implementing the policy established by the government at any time on these issues. The Article also addresses the operating basis of ÁTVR, stating that in addition to generating income, the agency's operations shall be as efficient as possible.

#### Regarding Article 5

The Article covers the Director of ÁTVR, who is appointed by the Minister of Finance for a term of five years. A new provision to the effect that the Director shall have completed a university degree useful to his/her work has been added. This is considered appropriate in view of the scope and size of the agency.

The responsibilities of the Director are defined; he/she is responsible for day-to-day operations and hires other employees. According to the Article, the Director shall prepare an annual report on the operations and activities of ÁTVR and present it to the Minister of Finance. This provision represents a departure from the previous Act in that it does not provide for the appointment of a board of directors for the agency. Instead, it expressly provides that the Minister shall be given an overview of the operations in an annual report.

#### Regarding Article 6

The main tasks of ÁTVR are listed in this Article, although the list is not exhaustive. An equivalent provision has existed in a regulation on ÁTVR, but it is considered important that the tasks are defined in statutory law so that the role of agency is clear.

#### Regarding Article 7

The Article covers the legal monopoly of ÁTVR. This Article does not represent a substantive change from the previous law but instead sets out and defines the legal monopoly of ÁTVR in a clearer way.

#### Regarding Article 8

The Article addresses the collection and levying of the tobacco tax. The tobacco tax has always been collected by ÁTVR and no changes are proposed to that arrangement. In addition to collecting the tax, ÁTVR monitors the packaging of tobacco products. A special label shall be affixed to the packaging to comply with the provisions of the Tobacco Control Act and ÁTVR monitors that these requirements are met.

#### Regarding Article 9

The Article covers the pricing of alcohol and tobacco products. The Article is identical to the equivalent provision in the previous law with the exception that ÁTVR is granted authority to levy a charge on suppliers for the cost of labelling tobacco products. The charge shall only be as high as is necessary to pay the labelling costs. A provision granting ÁTVR a similar right to levy a charge on suppliers for costs associated with alcohol products is also included.

#### Regarding Article 10

The Article covers the operating environment and running of ÁTVR's liquor stores. It states that ÁTVR shall own and operate liquor stores. The stores are entirely the

responsibility of ÁTVR, particularly the installation and maintenance of security and surveillance equipment. Applications for licenses to operate ÁTVR liquor stores are to be submitted to the relevant local government authority

#### Regarding Article 11

The Article contains a new provision requiring the Minister of Finance to establish regulations on ÁTVR's product selection and procurement of alcoholic beverages. The regulations shall take account of customer demand and ensure that producers and suppliers are able to offer their products for sale in ÁTVR's stores. The Article provides that ÁTVR's procurement shall accord with international conventions. ÁTVR has already taken measures to align its purchasing processes with the United Nations Global Compact principles. This entails imposing the condition that its suppliers follow and observe the principles of abolition of child labour, respect for human rights, health and safety in the workplace, environmental responsibility and anti-corruption. The Article furthermore grants ÁTVR the right to reject products for certain reasons listed in the Article. This is a change from the earlier law as this right had previously only been granted in a regulation. It is considered important to provide for this authority in statutory law so that ÁTVR is able to implement the government's policy in an effective manner.

In addition, it is proposed that ÁTVR should be allowed to reject a product that is very similar to another product on the market. As an example, ÁTVR would be entitled to refuse to sell a beer if its packaging is largely identical to that of a similar non-alcoholic product which is sold on the market. Producers have traditionally circumvented the advertising ban by producing a product with an alcohol volume of less than 2.25% under the same brand name as its alcoholic beverages. The exercise of this right should be subject to the condition that the two products are difficult to distinguish between, e.g. because of similar packaging or identical text or visual images.

Finally, the Article stipulates that ÁTVR may reject products containing caffeine or other stimulants. Products where strong alcohol is mixed with energy drinks are already available on the market. Studies have shown that the consumption of such beverages is very harmful to individuals and society as a whole. A person who drinks an alcoholic beverage containing stimulants is less likely to feel the effects of being intoxicated. The same studies have shown that people under the influence of such beverages are more likely to engage in drunk driving since they do not believe themselves to be intoxicated. Furthermore, the consumption of these beverages can lead to serious health issues, including heartbeat irregularities.

#### Regarding Article 12

The Article sets out the obligation of ÁTVR to provide high quality service. This entails offering professional and objective advice to customers. The second paragraph of the Article is similar to Article 7 of the previous law. However, the Article does require ÁTVR to provide customers with more detailed information than had previously been required, including information about the potential harmful effects of the product and the risks associated with its consumption. Clearly, ÁTVR must achieve a fine balance between providing good service and selling the product on the one hand, and implementing the current government policy on the other hand. The information disseminated by ÁTVR must include both these elements as alcohol and tobacco are unusual consumer products.

### Regarding Article 13

The Article defines the role of ÁTVR in view of the government's policy. It is proposed that ÁTVR should conduct its activities in a socially responsible way and strive to prevent the abuse of alcohol. The intention behind the authority granted in the Article is to enable ÁTVR to fulfil this role in an effective manner.

### Regarding Article 14

The Article provides for the right to appeal decisions to the Minster. Such a right was not expressly provided for in the previous law. It is clear that decisions made by ÁTVR regarding the rights and obligations of particular persons are administrative rulings that must be able to be appealed to a higher authority, in this case the Minster.

### Regarding Article 15

The Article covers sanctions and punishment. It is identical to the equivalent Article in the previous law.

### Regarding Article 16

The Article provides for the general authority of the Minister of Finance to issue regulations.

### Regarding Article 17

The Article covers entry into force and does not require further explanation.

## **Attachment**

*The Ministry of Finance,  
Budget Office:*

### **Comment on a Legislative Bill on Trade in Alcohol and Tobacco**

This Bill proposes the enactment of a new comprehensive law on trade in alcohol and tobacco. The main portion of current law dates back to 1963 and no longer adequately reflects actual practice. The Bill was drafted in accordance with the government's alcohol policy, which is based on the objective of minimizing the harmful effects of alcohol on society and public health. Nevertheless, the Bill does not represent major changes to trade in alcohol and tobacco. The main changes from the previous law consist of provisions relating to ÁTVR's social responsibility and provisions on product selection which grant ÁTVR the right to reject products on the grounds listed therein.

If the Bill passes into law without amendment, it is not expected to lead to any increased expenditures on the part of the State Treasury.